ORIGINAL

No. 03-5554

Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES

LARRY D. HIIBEL, *Petitioner*

v.

THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF HUMBOLDT, and THE HONORABLE RICHARD A. WAGNER, DISTRICT JUDGE, *Respondents*, and THE STATE OF NEVADA, *Real Party in Interest.*

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEVADA

PETITIONER'S REPLY MEMORANDUM

JAMES P. LOGAN, Jr.
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The State of Nevada concedes that certiorari should be granted: "The state submits that this court should grant Hiibel's Petition for Writ of Certiorari." (Brief in Opp., p. 16). The State represents that when it submitted its waiver on August 8, 2003, indicating it did not intend to file a response, it "asked the court to grant Hiibel's Writ of Certiorari because of the jurisdictional conflict between the Ninth Circuit Court of Appeals and the Nevada Supreme Court." (Brief in Opp., p. 4). Although in disagreement on the merits, the parties are thus in agreement that this Court should exercise its jurisdiction to grant the petition for a writ of certiorari and hear this matter on its merits.

Given the conflict of decisions among the state and federal courts; the importance of the federal question presented not just to Mr. Hiibel but to virtually anyone involved in a police encounter; the questionable reasoning of the lower court decision; and the timeliness of the issue presented, petitioner urges this Court to grant his petition and let the writ issue. Petitioner submits, however, that any argument addressed to the merits of the question presented are best presented in briefs on the merits and has thus refrained from addressing those arguments in this reply memorandum.

RESPECTFULLY SUBMITTED this 23 day of September, 2003.

JAMES P. LOGAN, JR.
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